UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION XI
NORTH CAROLINA
SOUTH CAROLINA
VIRGINIA
WASHINGTON, DC

May 16, 2024

By email only to atomalis@csdspartans.org

Amy Tomalis
Head of Upper School
Community School of Davidson
565 Griffith Street
Davidson, NC 28036

Re: Case No. 11-23-1694
Community School of Davidson

Dear Ms. Tomalis:

The U.S. Department of Education, Office for Civil Rights (OCR) has completed its investigation of this complaint filed against the Community School of Davidson. The Complainant filed the complaint on behalf of a student at the School (the Student). The Complainant alleged that the School discriminated on the basis of national origin by failing to respond to reports that students subjected the Student to harassment based on national origin ([redacted content]) between [redacted content].

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin, including shared ancestry or ethnic characteristics, in any program or activity receiving federal financial assistance from the Department of Education. The School receives federal financial assistance from the Department of Education, so OCR has jurisdiction over it pursuant to Title VI.

During its investigation to date, OCR reviewed information provided by the Complainant and the School. OCR also interviewed School administrators. Before OCR completed its investigation, the School expressed interest in resolving the allegation pursuant to Section 302 of OCR's *Case Processing Manual*, which states that allegations may be resolved prior to OCR making a determination if the school expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified concerns that can be addressed through a resolution agreement. The following is a summary of the evidence obtained by OCR during the investigation to date.

Evidence Obtained to Date

The Student attended the School [redacted content] during the 2022-2023 school year. The School has an Upper School, which consists of grades eight through twelve, and a Lower School. The Complainant told OCR that the Student [redacted content] after he wore an [redacted content].

Report of [redacted content]

On [redacted content], the Student's parent emailed the School's [redacted content] Administrator (the Administrator) to request a meeting because they had "been made aware of an issue" that the Student was experiencing at school and had "been for some time." The Administrator met with the Student's parents (the Parents) and the Student on [redacted content]. According to the School's notes taken during the meeting, the Parents informed the Administrator that [redacted content]. The Parents reported that the students also gave the Student the [redacted content]. The Parents said that students made the comments to the Student in [redacted content] at least weekly, if not more frequently. The Parents and the Student identified for the Administrator two [redacted content] students (Student A) and (Student B) who made the comments; they identified two other students (Student C) and (Student D) as also making comments but to a lesser extent.

Policies and Procedures

The School's Student Code of Conduct (the Code) states that "[n]o student shall in any way bully, harass, or exhibit inappropriate or disrespectful behavior toward other students, staff or any other person." The Code states that "prohibited bullying can take many forms" including "discrimination, such as harassment of a person based on… ancestry, national origin… or by association with a person who has or is perceived to have one or more of these characteristics." According to the Code, the discipline for bullying ranges from classroom discipline (Level 1), detention or suspension from school for one to three days (Level 2), or long-term suspension and exclusion (Level 3) depending on the severity of the offense. The Head of School told OCR that the School considers harassment "to be the highest level of offense."

The Lower School, Eighth Grade, and High School Handbooks contain a "grievance policy" (the Policy) with a procedure that "is to be followed whenever a parent and/or student has a grievance." The Policy states that the student or parent should first meet with the teacher or staff member to make a "good faith effort" to resolve the issue. If "the issue isn't satisfactorily resolved," the parent or student should then meet with the Director or one of the Assistant Directors, who will determine who from the administrative team should be involved. If the parent or student still feels that the issue is not resolved, they may write a letter to the Chair of the Grievance Committee, who will either resolve the grievance or convene the Committee within two weeks of receipt of the grievance "if practicable." If the Committee convenes, it will decide by majority vote to resolve the issue, or refer it to the Board of Education to consider, with a recommendation of any action to be taken.

The Head Administrator for the Upper School (Head of School) informed OCR that the School does not have a written procedure for responding to reports of harassment. The Head of School stated that students can report alleged harassment to any staff member, who will then refer the report to an administrator; and that staff tell students how they can report alleged harassment in

seminar and advisory groups.[1] The Head of School stated that upon any report of misconduct, the School follows a process of "restorative questioning," whereby an administrator asks a student accused of engaging in the conduct what happened, what the student was thinking, who was affected by the student's action, and what the student needs to do to "make things right." The Head of School explained that such questioning allows students accused and/or found to have engaged in misconduct to take some ownership over what happened. The Head of School stated that all School administrators are trained in restorative justice practices. The School did not provide information to OCR that there is a written or standard practice or procedure regarding such discussions or how the discussions or any findings of this process should be documented.

Response to [redacted content, Report

The Head of School informed OCR that the School had no prior knowledge of the conduct the Parents reported was occurring [redacted content]. According to the School, upon receipt of the report, the Head of School sent a written communication to the [redacted content], which stated that the Parents reported that the Student had been the victim of "harmful bullying words" that were [redacted content] "in nature" over a period of two years, and that recently "it's become physical… extra shoving while playing games." The Head of School identified Student A as the "primary" student and wrote that Student B made comments as well. The Head of School asked for "all eyes and ears on interactions among the boys," especially during unstructured times, and told staff to [redacted content]. The Head of School also wrote in the communication that the School would do an "intensive reeducation" as students began their [redacted content] civil rights unit. The Administrator stated to OCR that she also moved her office to the [redacted content] hallway so that she could be readily available for the Student to report any further incidents.

The School informed OCR that it conducted a [redacted content] investigation of the Parents' and Student's report, which the School stated included interviewing all students named in the report. On [redacted content], the Administrator interviewed Students A and B. According to notes the School provided, Student A told the Administrator that [redacted content]. Student A identified additional comments students made, such as [redacted content]; and acknowledged making comments on [redacted content]. According to the notes, Student A said that he, Student C and another student (Student E) started making the comments during [redacted content] and that when he first heard students making comments, he thought it was [redacted content]. Student A further stated that Student E and another [redacted content] student (Student F) continued to make comments in [redacted content].

According to the notes the School provided, Student B told the Administrator that on [redacted content], when he and others were playing a game with the Student during a break in classes, Student A said to the Student [redacted content]; and that after the game, Student A said [redacted content]. Student B further said that the week before, he called the Student a [redacted content] during a break in classes. Student B identified Student C as also having made [redacted content]

[1] The Head of School informed OCR that seminar classes occur in ninth grade when students meet as a grade and School staff have an opportunity to share information about topics, such as how to report bullying. She stated that while [redacted content] students do not attend seminar classes, staff give them information on how to report bullying. She stated that advisories are a mixed group of students assigned to an advisor who eat lunch together once a week and are an opportunity for community building.

comments to the Student. Student B said that he recalled the comments starting at [redacted content].

The Administrator stated that she spoke to at least eight students in addition to Students A and B and provided to OCR undated notes of interviews with Students C, D, and two other students (Student G and Student H). Students D, G, and H each said they heard students using the word [redacted content] at the School and Student H reported that he heard someone call the Student [redacted content]. The Administrator informed OCR that she also spoke to [redacted content] teachers who had the Student and accused students in their classes, as well as staff who were present during lunch, and none of these staff members reported hearing the reported or similar comments; the Administrator did not take notes of these conversations. The Head of School stated to OCR that the School was "unable to substantiate some of the claims involving other students aside from" those involving Students A and B.

The School informed OCR that administrators had conferences with the parents of six of the students interviewed. However, the School did not provide documentation to OCR of the conferences. The School issued Student A [redacted content]. The Head of School stated that during [redacted content]. The School did not provide documentation regarding Student A's [redacted content]. The Head of School stated that she believed Student B also received [redacted content]; however, the School did not provide any documentation of Student B's discipline. The Administrator informed OCR that she also asked teachers to keep the Student and Students A and B apart in classes they had together.

Report of [redacted content], and Response

In an email sent to the Administrator on the evening of [redacted content], the Student's mother stated that "[s]everal incidents happened today, with being called [redacted content] only one of them; the Student's mother stated that she could "expand on this" and requested a meeting. The Student's mother stated in the email that she spoke to the Student about "the entire scope of this, the many boys that have been doing this to him [redacted content]. By email dated [redacted content], the Administrator responded that she and the Head of School could meet with the Student's mother that day, to which the Student's mother responded "Great, thanks so much." The School did not provide documentation to OCR of this meeting.

On [redacted content], the Head of School sent a written communication to [redacted content] notifying them of "an increase in the use of harmful language towards others that we believe could be intensified by and influenced by social media, music, and television shows." The communication said that harmful words, "especially those pertaining to a person's race, religion, ethnic identity, gender identity, or culture, will not be tolerated." The communication asked [redacted content] to talk with their students to reiterate the importance of a "community of inclusivity and belonging," and to remind students that their words and actions can have a long-term impact on others. The communication included information and resources on bullying. It also stated that incidents of bullying may be reported to an administrator, counselor, advisor, or classroom teacher and that:

> [School] Administrators and Teachers will investigate the situation, and communicate directly with the student who is bullying and both parents of the bullying student as well as the targeted student. Consequences are put in place for the bully and consequences increase in severity for additional bullying incidents…. [and] can include time out of the class, formal suspension, change in class placement/schedule, increased supervision for that child. Retribution is considered a VERY severe behavior and will result in serious consequences." [Emphasis in original.]

Reports of [redacted content], and Response

By email dated [redacted content], the Student's mother informed the Administrator and the Head of School that on [redacted content], Student A [redacted content] to the Student, and that Student B retaliated against the Student by [redacted content]. The Student's mother wrote in the email [redacted content]. She stated that the Student "explained it was clear that [Student B] was not actually going for the ball" and the Student could give more information as to why he believed it was retaliation. She further stated that she was concerned because the [redacted content], and now we have stepped over into physical retribution."

The School asserted that administrators spoke with School staff and "learned that there were no incidents of bullying or harassment observed." The School stated it "directed employees to have a heavy presence, akin to shadowing, around the students known to be involved in the harassment of the Student."

The Student's mother wrote in a letter to the School on [redacted content], that she also reported to the School on [redacted content], that in [redacted content] that day, the Student and Student B got into a fight. She stated that prior to the fight, Student B "shoved [the Student] and threatened that he was going to assault him" and that the Student "protected himself physically in response to [Student B's] escalations" and telling the Student "he was going to 'kick his ass.'"

The School asserted that administrators investigated the report on [redacted content], by, among other things, speaking with the Student in the school counselor's office. According to the School, the Student reported during this meeting that [redacted content]. The School did not provide to OCR any documentation or notes of this meeting.

With respect to Student A, the School did not provide documentation to OCR of any interviews conducted regarding Student A's alleged conduct on [redacted content]. According to notes provided by the School, the Head of School replied to the Student's mother that another student had reported Student A's comment and that Student A had received "consequences," his parent had been notified, and he had been "remove[d] from the community." The School did not provide to OCR documentation of any discipline imposed on Student A beyond the [redacted content] Student A served from [redacted content].

With respect to Student B, notes provided by the School indicated that the Head of School told the Parents that the Administrator would talk to the Student to get more information about how the incident with Student B "translated to retaliation." According to notes provided by the School, the Head of School spoke with the Student, who informed her that he and other students were playing

basketball during gym and were one-upping each other and "trash talking," but that none of the trash talking included [redacted content]. The notes stated that the Student "named several witnesses and they confirmed" the account. The notes indicated that the Student reported that Student B tried to pick a fight with him "[a]ll the time" and had tried to hurt the Student the day before in [redacted content] class by tripping him.

The notes from the School indicated that the Head of School also spoke with Student B, who reported that the Student started "swinging" at Student B during the basketball game and Student B then put the Student in a headlock and said he would hit him if the Student "c[ame] at [him] again."[2] The Head of School contacted the Parents on [redacted content], to inform them that she investigated the alleged conduct by Student B and was unable to substantiate the report as alleged. The documentation provided by the School did not indicate whether the School investigated whether Student B kicked the Student while [redacted content].

The School informed OCR that as part of an "additional support plan" following the [redacted content], report, it allowed the Student to carry his cellphone so that he could immediately report any bullying or harassment; and created a group text chat with the Student, his parent and the Administrator.[3] The School stated that the Student never made any report via the group text chat. Notes regarding the [redacted content], report also stated that the Head of School told the Parents that she asked one of the high school gym teachers to be a "go-to adult" for the Student; and asked for an "adult shadow" for Students A and B. The School informed OCR that additionally, administrators were present during recess and other unstructured times to observe whether any [redacted content] occurred, particularly during times when the Student played with students alleged to have engaged in the reported conduct. The Head of School stated that after [redacted content], which occurred from [redacted content], the School assigned an assistant teacher to shadow Students A and B.

The Head of School informed OCR that in response to the Parents' reports, Social Studies teachers also taught all [redacted content] students an [redacted content] and brought in an expert to "work with them to do intensive work about hurtful words and discrimination." According to an eighth-grade newsletter, these activities occurred the week of [redacted content].

On [redacted content], the parents emailed the Head of School to request another meeting, indicating that they believed the situation had not been resolved and was ongoing. The parents stated that they were not clear on what "the plan is going forward not only for [the Student], his safety, the safety of [redacted content]. The School provided information showing that on [redacted content], it summarized for the Parents the School's response to the reports of harassment; informed them that the School could not provide specific information regarding consequences imposed on offending students; and provided dates that School staff were available to meet. On [redacted content], School staff met with the parents, as described below. On [redacted content], the Head of School sent an email to the coaching staff at the School asking them to ensure that coaching training includes how to respond if a player makes a "defamatory slur – racial, gender, sexual orientation, cultural, religious, etc."

[2] The School stated that it also reviewed [redacted content]. It stated that Student B made the winning shot and celebrated, and, in response, the Student swung his fists at Student B and hit the side of his head.
[3] Pursuant to School policy, [redacted content] students are not permitted to carry cellphones during the school day.

Report of [redacted content], and Response

On [redacted content], the Parents met with the Head of School, the Administrator, a school counselor, and the Athletic Director.[4] According to a summary of the meeting from the School, the Parents reported that "incidents continue." The Administrator provided notes that indicated that the Student joined the meeting and said that on [redacted content], Student A said to him, [redacted content]. The Student also reported that when a teacher wished the Student a happy birthday, Student A said "I was going to make a [redacted content] but I can't say that." The notes reflect that the Student further said Student F said "gotta be nice," [redacted content]. During the meeting, the School offered to provide counseling to the Student, and the parents declined.

The School asserted that it changed some of Student A and Student B's classes to separate them from the Student. Documentation provided by the School shows that on [redacted content], Student A and Student B had their schedules changed [redacted content]. The Head of School stated that with respect to classes it was unable to change, the School created seating charts to separate the students.

Report of [redacted content], and Response

In a letter to the School dated [redacted content], the parents expressed concern that the School had not reached out to them after the meeting on [redacted content]. In the letter, the parents reported that on [redacted content], Student B told the Student to [redacted content]. The parents again provided the names of nine students who the parents asserted made [redacted content] to the Student, as well as the comments made and words used. The letter continued:

[redacted content].

The letter reiterated several previously reported incidents and included new information regarding alleged prior conduct, such as that during school year [redacted content], the Student saw [redacted content]. The Student's mother asked whether staff were aware of this or whether there had been any reports [redacted content], and questioned how staff had not heard or reported comments she asserted were regularly made openly and in front of staff.[5] In the letter, the Student's mother questioned why several of the named students were assigned to the Student's group for an upcoming [redacted content], and asked why Student A was still in several of the Student's classes.

The Head of School stated that the School questioned students about the additional reports of harassment against the Student, but could not substantiate the Student's claims. The School further said that it investigated whether Student B said [redacted content] to the Student, and substantiated that this occurred but seemed related to "trash talking" and competitive behavior between the students. The School stated that as a consequence for telling the Student to [redacted content], Student B was [redacted content] with the School on [redacted content], and instead spent the day

[4] School notes indicated that the School included the Athletic Director in the meeting "to continue to use athletics as an additional intervention opportunity and keep leadership fully looped in."

[5] The School informed OCR that no teachers, including the Student's social studies teachers, heard or witnessed the alleged conduct. The School did not provide to OCR documentation of interviews of any teachers

helping the [redacted content]. The School did not provide clear documentation of follow up interviews with students about these reports or of Student B's consequence.

The Head of School wrote a letter to the Parents, dated [redacted content], outlining steps the School had taken to address their reports. Her response stated that she forwarded a copy of the [redacted content], letter to the Lower School administrators so that they could determine whether there were reports of [redacted content] made to the Student during the [redacted content] school year. In addition, the Head of School offered to meet with the parents to discuss strategies for the following school year. The School told OCR that the Head of School [redacted content] so that they "could check records of any reports that were made of [redacted content] directed towards [the Student]."

Additional Reports and Response

In an email dated [redacted content], the Parents reported to the Administrator that students [redacted content], including a student "from the list of those harassing [the Student]," and asked if the School could review video footage from [redacted content] to see what occurred. The Parents stated in the email that they believed this could be another example of retaliation. The School informed OCR that it reviewed footage "from multiple angles and locations" but could not find evidence of the conduct described. The School stated that it nevertheless spoke to the student identified by the Parents and reminded him of the School's "behavioral expectations." The School did not provide any documentation or notes regarding its response to the report.

Following the [redacted content], the Parents emailed the Head of School reporting that Student C said he witnessed Student A refer to the Student as [redacted content] in the presence of Student A's mother and Student C. The School stated that it promptly investigated the report and, on [redacted content], the Administrator contacted the Parents to inform them that the School could not substantiate the report. Specifically, the Administrator told the Parents that Student C's "story didn't match" what the Parents reported occurred on the [redacted content], and that the Administrator had been unable to substantiate the incident with the [redacted content] despite having reviewed video footage. According to the School, the Parents further reported that on [redacted content], Student B made an [redacted content] to the Student and that Student A [redacted content]. The School asserted that it investigated the report and could not substantiate the report. However, the School did not provide any documentation or notes regarding any investigation of the report.

In an email to the Parents dated [redacted content], the Head of School stated that School had investigated every "reported or witnessed incident of bullying" and had intervened with consequences where appropriate. She further said that the School had implemented a reeducation program for students and made counseling services available to students who were affected; that the School had "been in close communication with parents to ensure that we are working together to address this issue"; and that "teachers have been attentive and vigilant, providing a watchful presence." She said that she and other staff planned to be "standing with and sitting among students to provide an additional layer of support" [redacted content]. In addition, the Head of School invited the parents to meet with the "elevated leadership team" to discuss their continued concerns.

The Head of School and the Administrator stated told that they were unable to substantiate any incident during the [redacted content] school year that occurred after their initial determination regarding the [redacted content], report. They further stated that they were unable to substantiate that any students made [redacted content].

The School informed OCR that it did not receive any complaints of harassment based on national origin from any other student or staff member during school years [redacted content]. The Head of School told OCR that the School recently sent out an annual anonymous survey to parents called the belonging survey asking questions about the School's efforts regarding equity, diversity, and inclusion. OCR was able to access an "Anonymous Parent Survey about Belonging" on the School's website, which asked questions about what belonging means to the responder, how much the responder feels a sense of belonging at the School, what the School is doing that makes the

responder feel they belong and what the School could do better to make the responder feel that they belong. The survey further asked about the responder's willingness to speak to School staff about something that impacts their child's sense of belonging at the School.

Legal Standard

The regulation implementing Title VI, at 34 C.F.R. § 100.3, provides that no person shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program to which Title VI applies.

Title VI's protection from national origin discrimination extends to students who experience discrimination, including harassment, based on their actual or perceived shared ancestry or ethnic characteristics, such as students of Jewish, Palestinian, Muslim, Arab, and/or South Asian descent, or citizenship or residency in a country with a dominant religion or distinct religious identity, or their association with this national origin/ancestry. The existence of a hostile environment based on national origin that is created, encouraged, accepted, tolerated, or left uncorrected by a recipient constitutes discrimination on the basis of national origin in violation of Title VI.

To establish a violation of Title VI under the hostile environment theory, OCR must find that: (1) a hostile environment based on race, color, or national origin existed; (2) the recipient had actual or constructive notice of the hostile environment; and (3) the recipient failed to take prompt and effective action to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.

OCR interprets Title VI to mean that the following type of harassment creates a hostile environment: unwelcome conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from a recipient's education program or activity. Harassing acts need not be targeted at the complainant to create a hostile environment. The acts may be directed at anyone, and the harassment may also be based on association with others of a different race (the harassment might be referencing the race of a sibling or parent, for example, that is different from the race of the person being harassed whose access to the school's program is limited or denied).

The harassment must in most cases consist of more than casual or isolated incidents based on national origin to establish a Title VI violation. Whether harassing conduct creates a hostile environment must be determined from the totality of the circumstances. OCR will examine the context, nature, scope, frequency, duration, and location of the harassment, as well as the identity, number, and relationships of the persons involved. If OCR determines that the harassment was sufficiently severe or pervasive that it would have limited the ability of a reasonable person, of the same age and national origin as the victim, under the same circumstances, from participating in or benefiting from some aspect of the recipient's education program or activity, OCR will find that a hostile environment existed.

A recipient may be found to have violated Title VI if it has effectively caused, encouraged, accepted, tolerated, or failed to correct a hostile environment based on national origin harassment of which it has actual or constructive notice. A recipient is charged with constructive notice of a

hostile environment if, upon reasonably diligent inquiry in the exercise of reasonable care, it should have known of the discrimination. In other words, if the recipient could have found out about the harassment had it made a proper inquiry, and if the recipient should have made such an inquiry, knowledge of the harassment will be imputed to the recipient.

A recipient violates Title VI if one of its agents, acting within the scope of their official duties, has treated an individual differently on the basis of national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason so as to interfere with or limit the ability of the individual to participate in or benefit from the services, activities, or privileges provided by the recipient. If the alleged harasser is an agent or employee of a recipient, acting within the scope of their official duties, then the individual will be considered to be acting in an agency capacity and the recipient will be deemed to have constructive notice of the harassment.

Once a recipient has actual or constructive notice of a hostile environment, the recipient has a legal duty to take reasonable steps to eliminate it. OCR evaluates the appropriateness of the responsive action by assessing whether it was reasonable, timely, and effective. The appropriate response to a hostile environment based on national origin must be tailored to redress fully the specific problems experienced as a result of the harassment.

Analysis

Based on the evidence obtained to date, OCR determined that there was evidence to substantiate that students subjected the Student to harassment that created a hostile environment based on his [redacted content] national origin ([redacted content]) and that the School had actual notice of the harassment. OCR is concerned that the School failed to consistently take prompt and effective steps to redress the hostile environment for the Student and other students; and failed to effectively redress the hostile environment at the School more broadly.

The School also did not maintain adequate documentation of its investigations into the incidents of harassment at the School. OCR is concerned that the School's incomplete documentation of any investigations, including interviews, and the lack of documentation of steps the School stated it took in response to the harassment may have impeded the School from identifying whether a hostile environment existed for other students and from taking timely, reasonable, and effective steps to eliminate the hostile environment.

Specifically, the evidence shows that on [redacted content], the Parents and Student informed the School that other students were harassing the Student based on his [redacted content]. In response, the School asked the [redacted content] teachers to increase the supervision of the students involved and conducted interviews with the students identified by the Parents and the Student as engaging in the harassing conduct and some other students who witnessed the harassment. Evidence from the interviews indicated the harassment was severe, persistent, and pervasive and had been [redacted content].

In response, the School disciplined Student A, reportedly disciplined Student B, and stated that it held parent conferences with several students' parents. OCR is concerned that the School did not take reasonable and effective steps to eliminate the hostile environment. For example, although

the Student alleged, and Students A and B confirmed, that an additional student made antisemitic comments to the Student, there is no evidence that the School disciplined or provided any response regarding him.

Additionally, despite evidence from the interviews that a hostile environment may have begun during the [redacted content] school year, the School did not provide documentation that it investigated incidents from the prior year or that it investigated whether any student bystanders witnessed and were impacted by the ongoing harassment. The School also did not conduct interviews or provide notes of conversations with teachers to determine if they witnessed the harassment from the prior year or continued to witness harassment. Further, there is no evidence that after substantiating that harassing conduct [redacted content], the School took steps to address the harassment with the Student to mitigate its effects, such as offering supportive measures at this time or determining at this time whether there should be changes in class schedules for the students who admitted harassing him. Additionally, there is no evidence that the School put in effective supports for bystanders who may have witnessed the [redacted content] and experienced the impact of a hostile environment.

The evidence shows that the Parents and a student witness reported to the School that Student A continued to harass the Student on [redacted content], and the Student reported that Student B also allegedly retaliated against him while [redacted content] at the School. The School asserted that it interviewed the Student about an incident that occurred while [redacted content] with Student B and informed the Parents it did not substantiate the allegations; however, the School did not provide information that it investigated the alleged [redacted content] or documentation that it interviewed the student witness or Student A about the allegations.

Despite subsequent steps that the School said it took from [redacted content], including increasing supervision of Student A and B, the provision of additional education on the [redacted content] and a workshop on discrimination, the Parents and Student reported to the School on [redacted content], that students continued to harass and retaliate against the Student. The School stated that it could not substantiate the Student's claims; however, it did not provide documentation substantiating that it investigated the ongoing harassing comments. The evidence shows that at this point the School moved Students A and B out of the some of the Student's classes – almost a month after the initial allegations of harassment were substantiated; although, Students A and B remained in other of the Student's classes through the end of the school year.

The evidence shows that the Parent again raised allegations of harassment and retaliation in [redacted content], including specific incidents that she stated occurred the prior school year. While the School stated that it found the allegations to be unsubstantiated, the School did not provide any information that it took any action to investigate the reports of harassment from the [redacted content] school year except to forward a copy of the allegations to the [redacted content] administration or that it investigated the allegations of ongoing harassment and retaliation.

Conclusion

On May 10, 2024, the School agreed to implement the enclosed Resolution Agreement, which, when fully implemented, will address the identified concerns. OCR will monitor the School's

implementation of the agreement until the School is in compliance with the terms of the agreement and the statutes and regulations at issue.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the School's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. OCR would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the School must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint against the School with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, OCR will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

We appreciate the School's cooperation in the resolution of this complaint. If you have any questions, please contact the OCR attorneys assigned to this complaint, Samantha Shofar, at Samantha.Shofar@ed.gov, or Amy Fellenbaum, at Amy.Fellenbaum@ed.gov.

Sincerely,

Jennifer Barmon
Team Leader, Team III
Office for Civil Rights
District of Columbia Office

cc: Rebecca Williams
Grace Pennerat